

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5005

IN THE MATTER OF:

Served January 21, 1997

Investigation of Unauthorized)
Operations of MADISON LIMOUSINE)
SERVICE, INC., Trading as)
MADISON LIMO, WMATC No. 132, and)
AMERICAN SERVICES INTERNATIONAL)
COMPANY, WMATC No. 197)

Case No. MP-97-03

Madison Limousine Service, Inc., trading as Madison Limo, holds Certificate of Authority No. 132, which was issued June 24, 1996, pursuant to Commission Order No. 4857, served May 22, 1996. Applicant previously held Certificate No. 132 from May 12, 1987, to August 30, 1991, when it was revoked for applicant's willful violation of the Compact.¹ In 1992, while Certificate No. 132 was still revoked, the Commission assessed a civil forfeiture against Madison for knowingly and willfully operating without authority.²

The Commission granted Madison's application in Order No. 4857 despite the history of violations because Madison had corrected its past mistakes by paying the civil forfeiture in 1992 and because there was no evidence in the record of any violations of the Compact during the intervening four years.

During the course of the application proceeding, the Commission became aware that Madison was sharing office space with American Services International Company (ASI), WMATC No. 197. Order No. 4857 admonished each carrier to keep its assets, books and operations completely separate from the other's, and each was cautioned that permission to share office space should not be construed as permission to share revenue vehicles or operating authority.

A routine audit of the Commission's insurance files reveals that although Madison and ASI have filed separate certificates of insurance, the insurance company name and policy numbers on Madison's certificates are the same or nearly the same as those on ASI's certificates. The insurance broker for these two carriers has stated that, indeed, the same policies apply to both carriers. The broker has explained that this is possible because Madison and ASI "share common management."

¹ Air Couriers Int'l Ground Transp. Servs., Inc., t/a Passenger Express, v. Madison Limo. Serv., Inc., No. FC-90-02, Order No. 3810 (Aug. 30, 1991).

² In re Madison Limo. Serv., Inc., No. AP-91-39, Order No. 3891 (Feb. 24, 1992), aff'd on reconsideration, Order No. 3914 (Mar. 25, 1992).

The Compact states that a person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority.³ The Compact further states that a carrier shall obtain Commission approval to consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District.⁴

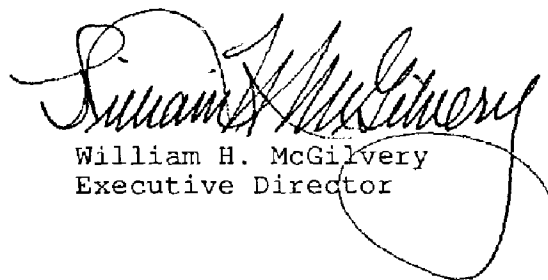
Article XIII, Section 6(f), provides that a person who knowingly and willfully violates a provision of the Compact shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation and that each day of the violation constitutes a separate violation. Further, under Article XI, Section 10(c), the Commission may suspend a certificate for the holder's willful failure to comply with a provision of the Compact or an order, rule, or regulation of the Commission. The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁵ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, the terms describe conduct marked by careless disregard whether or not one has the right so to act.⁶

THEREFORE, IT IS ORDERED:

1. That respondents shall have 30 days from the date of this order to show cause why a civil forfeiture should not be assessed -- and why Certificates Nos. 132 and 197 should not be suspended or revoked -- for respondents' violation of Order No. 4857 and respondents' violation of the Compact, Article XI, Section 11, and/or Article XII, Section 3.

2. That, pursuant to the Compact, Article XI, Section 10(c), respondents may file within 15 days from the date of this order a request for oral hearing, provided that said request describes the evidence to be adduced at such hearing and explains the reasons why the evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director

³ Compact, tit. II, art. XI, § 11(b).

⁴ Compact, tit. II, art. XII, § 3(a)(i).

⁵ In re Great American Tours, Inc., The Airport Connection, Inc. II, & Airport Baggage Carriers, Inc., No. MP-96-54, Order No. 4986 (Dec. 17, 1996).

⁶ Id.